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Human rights situations that require the Council's attention

Written statement* submitted by ODHIKAR – Coalition for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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BANGLADESH: Human Rights Council should take initiative to make the Bangladesh Government accountable for enforced disappearances and accede to the Convention on Enforced Disappearance

The commission of enforced disappearances has dramatically increased in Bangladesh in recent years and government authorities have been unwillingness to investigate such cases. According to information gathered by Odhikar, at least 414[1] individuals were subjected to enforced disappearance[2] by various law enforcement agencies between 2009 and 2017. In 2013, before the 10th parliamentary elections held in January 2014, cases of disappearances rose and many opposition leaders and dissident voices[3] became targets of enforced disappearances. The next parliamentary elections are scheduled for the end of 2018. There are fears that incidents of enforced disappearance will take place ahead of the upcoming elections and the human rights situation will deteriorate further amid increasing violence and ongoing impunity. Under the current administration, enforced disappearances have been used to targeted political opponents and silence dissenting voices. The families of the disappeared and witnesses have repeatedly claimed that members of law enforcement agencies, or men claiming to be from such agencies, arrested and took away the victims and the authorities have denied taking them. Statements of many witnesses in this regard reveal that members of law enforcement agencies have been involved in enforced disappearances.

Law enforcement agencies often initially deny alleged abductions and after days or months the police or security forces then produce abductees before the media as suspects in a criminal investigation or as those charged with a crime. In cases where bodies of victims are recovered, the police often attribute such deaths to 'crossfire', 'gunfire' or 'encounters'. Alternatively, abductees are falsely categorized as having been convicted and sentenced to imprisonment by the courts. Only two cases of enforced disappearances have been investigated in Bangladesh since 2009.[4] In one case, the perpetrators were prosecuted and found guilty of the disappearance and the killing of seven men in 2014.5 In

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[1] Among them, 54 were found dead, 228 were released after being left blindfolded at a particular location or shown as arrested or produced before a court after several days or months following their disappearance. The fate or whereabouts of 132 persons remained unknown.

[2] Odhikar only documented the enforced disappearance cases where the families of the disappeared claim that members of law enforcement agencies allegedly picked up the victims.

[3] 'We Don't Have Him, Secret Detentions and Enforced Disappearances in Bangladesh', Human Rights Watch, please see https://www.hrw.org/sites/default/files/report_pdf/bangladesh0717_web.pdf

[4] On 16 January 2017, Narayanganj District and Sessions Judge Syed Enayet Hossain found 35 individuals, including 25 members of the police special force Rapid Action Battalion (RAB)-11, to be responsible for the disappearance and murder of seven men on 27 April 2014. In the judgment, 26 accused, including 16 RAB officers and members, were sentenced to death. On 22 August 2017, the High Court Division of the Supreme Court upheld the death penalty of 15 of the RAB officers and members. On August 4, 2016 at around 9.30 pm, Sub-Inspector (SI) Himel of Satkhira Sadar Police Station arrested Sheikh Mokhlesur Rahman, aka. Johny, and took him to the Police Station from the Rabony Cinema Hall intersection of the town where he had gone to buy medicine for his father. On 5-7 August 2016, the family members of Johny provided food to him at the police station custody cell and also talked to him. They also spoke to the then-Officer-in-Charge of the Police Station Emdadul Huq and SI Himel regarding Johny. The police informed them that Johny had involvement with 'Islamic extremists' and demanded a huge amount of money for his release. On 8 August 2016, the family did not find Johny at the police station and the police refused to inform them of his whereabouts. Later the family filed a case in this regard. On 4 July 2017, a Senior Judicial Magistrate of Satkhira, Habibullah Mahmud submitted an inquiry report to the High Court Division of the Supreme Court that found three high-ranking police officials to be involved in the arrest of homeopathic physician Sheikh Mokhlesur Rahman, aka Johny, and his subsequent enforced disappearance.

[5] 'Death for 15, life term for 11: *HC revises lower court verdict in sensational 7-murder case, upholds death penalty for 15 including expelled Narayanganj AL leader Nur Hossain, 3 ex-Rab officers*', *The Daily Star, 23 August 2017*; http://www.thedailystar.net/frontpage/narayanganj-7-murder-verdict-high-court-bangladesh-death-reference-appeal-death-15-life-term-11-1452607

another case, a judicial probe showed that members of law enforcement agencies were involved in the enforced disappearance of a doctor, but none of the perpetrators were prosecuted.6

Furthermore, many victims and families of the victims are being regularly harassed and threatened by ruling party activists and law enforcement agencies. Families of the disappeared rarely hold press conferences or talk about disappearances due to constant threats and surveillance by the law enforcement personnel. Police officers are reluctant to register a complaint against their colleagues or other members of law enforcement agencies. The police insist that the complainants should exclude law enforcement agencies' name and that the allegation of disappearance should be changed to 'kidnapping by unidentified criminals'. The investigation of the few cases that were investigated in the past nine years, have not seen any progress. Writs of Habeas Corpus filed by families often end up as futile litigation, as the Attorney General's Office defends the alleged perpetrators of the law-enforcement agencies before the High Court. The failure of the judiciary to effectively respond leaves victims without recourse to judicial remedies or justice.

In many cases, instead of conducting prompt and thorough investigations, the authorities have repeatedly denied that incidents of enforced disappearance occur and have claimed that the victims were either kidnapped or had gone into hiding. For example, the Bangladeshi Home Minister claimed that many allegations of businessmen who disappeared were cases in which they had voluntarily gone into hiding after failing to repay their loans. He also asserted that some disappearances were actually cases of people going into hiding following extramarital relationships.7 On 23 November 2017, Prime Minister Sheikh Hasina told Parliament that the disappearance of people is a common phenomenon not only in Bangladesh, but also in developed countries like the US and the UK.8

Since August 2017, a new trend has emerged in which numerous individuals including a university teacher, a politician, a former ambassador, a businessman, a journalist and a few students mysteriously went 'missing'. Some of them resurfaced and some of them were shown as arrested. Some victims, after their return, gave statements to the media. Their accounts contained many similarities and even their detention experience was almost the same.9 During this period, those who resurfaced after abduction have also reported that their abductors were well-organised and had the necessary resources to make victims disappear. Some members of law enforcement agencies were allegedly involved in these incidents. Such assumptions became stronger when a high-ranking police officer spoke directly on this matter. On 14 December 2017, Deputy Commissioner of Dhaka Metropolitan Police Biplob Kumar Sarkar admitted that police picked up people but could not admit to doing so due to strategic reasons. He also mentioned the incident of the disappearance of doctor Shamim Khan10 who was abducted on January 1, 2016, and was found unconscious after 30 hours.11

The UN Human Rights Council should make the following recommendations to Bangladesh:

i. Ensure the independence of the Judiciary and create an independent Judicial Probe Commission for investigating the allegations of enforced disappearances leading to prosecution of all the cases of disappearances;

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6 'Cops involved with arrest, disappearance of Satkhira physician: judicial report', New Age, 09 July 2017, http://www.newagebd.net/article/19321/

7 'No, Bangladesh, The Truth is Not a 'Smear Campaign', Instead of Investigating, Authorities Reject Report of Enforced Disappearances', by Meenakshi Ganguly, South Asia Director of HRW, https://www.hrw.org/news/2017/07/07/no-bangladesh-truth-not-smear-campaign

8 'People disappear not only in Bangladesh, but also in US, UK', The daily Dhaka Tribune, 24/11/2017, http://www.dhakatribune.com/bangladesh/2017/11/24/people-disappear-not-bangladesh-also-us-uk/

9 'Mubashar, Utpal return, but what of the abductors', the daily Prothom Alo, 23/12/2017, http://en.prothomalo.com/opinion/news/168406/Mobashar-Utpal-return-but-what-of-the-abductors

10 Dr. Shamim Khan was picked up by law enforcement agency on the allegation of sheltering two accused who were involved in bomb blast in a mosque at a naval outpost in Chittagong.

11 'Police officer says they cannot reveal all about anti-terror operations', bdnews24.com, 14/12/2017, https://bdnews24.com/bangladesh/2017/12/14/police-officer-says-they-cannot-reveal-all-about-anti-terror-operations

ii. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and criminalize enforced disappearance under domestic law;

iii. Take necessary measure to effectively hold perpetrators of enforced disappearances accountable through impartial investigation into allegations of such crimes and ensure access to justice to victims of enforced disappearances;

iv. Issue an invitation to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) for a country visit.